

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ISON JAMAAL PATTERSON,

ANSWER TO COMPLAINT

Plaintiff,

07 CV 6725 (SHS)

-against-

JURY TRIAL DEMANDED

THE CITY OF NEW YORK, a municipal entity, NEW  
YORK CITY POLICE OFFICER DINA MORETTI,  
Shield # 20780, NEW YORK CITY POLICE  
OFFICERS "JOHN DOES", all of the identified and  
non identified persons in their individual and in their  
official capacities,

Defendants.

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Defendants, City of New York and Police Detective Dina Moretti, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, as and for their answer to the Complaint, dated July 24, 2007 ("Complaint"), respectfully state, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the Complaint, except admit that plaintiff purports to bring this action as stated therein.
2. Deny the allegations set forth in paragraph "2" of the Complaint, except admit that plaintiff has commenced an action seeking relief as stated therein.
3. Deny the allegations set forth in paragraph "3" of the Complaint, except admit that plaintiff has commenced an action seeking relief as stated therein.
4. Deny the allegations set forth in paragraph "4" of the Complaint, except admit that plaintiff purports to invoke the jurisdiction of this Court as stated therein.

5. Deny the allegations set forth in paragraph "5" of the Complaint, except admit that plaintiff purports to invoke the jurisdiction of this Court as stated therein.

6. Deny the allegations set forth in paragraph "6" of the Complaint, except admit that plaintiff purports to invoke the jurisdiction of this Court as stated therein.

7. Deny the allegations set forth in paragraph "7" of the Complaint, except admit that plaintiff has commenced an action seeking relief as stated therein.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "8" of the Complaint.

9. Deny the allegations set forth in paragraph "9" of the Complaint, except admit that the City is a municipal corporation incorporated under the laws of the State of New York, and respectfully refer the Court and plaintiff to the New York City Charter and the Administrative Code for a recitation of the relationship between the City and the New York City Police Department.

10. Deny the allegations set forth in paragraph "10" of the Complaint, except admit that Moretti was on or about June 29, 2007 employed by the City as a police officer, and state that the allegations that her "actions and conduct ... were taken in and during the course of their duties and functions as ... Police Officers and as agents and employees of the City" are legal conclusions which do not require a response.

11. Deny the allegations set forth in paragraph "11" of the Complaint, except admit that plaintiff purports to bring this action as stated therein.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the Complaint.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "13" of the Complaint.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the Complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the Complaint.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the Complaint.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "17" of the Complaint.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "18" of the Complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of allegations set forth in paragraph "19" of the Complaint.

20. Deny the allegations set forth in paragraph "20" of the Complaint, except admit that on or about June 29, 2007, plaintiff was arrested in front of 634 Nereid Avenue, Bronx, New York.

21. Deny the allegations set forth in paragraph "21" of the Complaint, except admit that plain clothes New York City Police Officers arrested plaintiff.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "22" of the Complaint regarding a search at the precinct, except admit that plaintiff was frisked at the scene, that plaintiff's cell phone was given to another, and that plaintiff was placed in a car and transported to the 47<sup>th</sup> Precinct.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "23" of the Complaint, except admit that plaintiff was detained at the precinct and then transported to a central booking facility.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "24" of the Complaint.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "25" of the Complaint.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "26" of the Complaint, except admit that no contraband was found on plaintiff's person.

27. Admit the allegations set forth in paragraph "27" of the Complaint.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "28" of the Complaint.

29. Deny the allegations set forth in paragraph "29" of the Complaint, except admit that plaintiff was observed engaging in a drug transaction.

30. Deny the allegations set forth in paragraph "30" of the Complaint, except admit that Moretti was the arresting officer.

31. Deny the allegations set forth in paragraph "31" of the Complaint.

32. Deny the allegations set forth in paragraph "32" of the Complaint.

33. Deny the allegations set forth in paragraph "33" of the Complaint.

34. Deny the allegations set forth in paragraph "34" of the Complaint.

35. Deny the allegations set forth in paragraph "35" of the Complaint.

36. Deny the allegations set forth in paragraph "36" of the Complaint.

37. Deny the allegations set forth in paragraph "37" of the Complaint.

38. Deny the allegations set forth in paragraph "38" of the Complaint.

39. Deny the allegations set forth in paragraph "39" of the Complaint.

40. Deny the allegations set forth in paragraph "40" of the Complaint.

41. Deny the allegations set forth in paragraph "41" of the Complaint.

42. Deny the allegations set forth in paragraph "42" of the Complaint.

43. Deny the allegations set forth in paragraph "43" of the Complaint.

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "44" of the Complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "45" of the Complaint, except admit that plaintiff was arrested on June 29, 2007.

46. The allegations set forth in paragraph "46" of the Complaint is not an averment of fact and, accordingly, requires no response.

47. Deny the allegations set forth in paragraph "47" of the Complaint, except deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding plaintiff's cell phone and monies vouchered as evidence.

48. Deny the allegations set forth in paragraph "48" of the Complaint.

49. Deny the allegations set forth in paragraph "49" of the Complaint.

50. Deny the allegations set forth in paragraph "50" of the Complaint.

51. Deny the allegations set forth in paragraph "51" of the Complaint.

52. In response to the allegations set forth in paragraph "52" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "51" of this answer as if fully set forth herein.

53. Deny the allegations set forth in paragraph "53" of the Complaint.

54. Deny the allegations set forth in paragraph "54" of the Complaint.

55. In response to the allegations set forth in paragraph "55" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "54" of this

answer as if fully set forth herein.

56. Deny the allegations set forth in paragraph "56" of the Complaint.

57. Deny the allegations set forth in paragraph "57" of the Complaint.

58. In response to the allegations set forth in paragraph "58" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "57" of this answer as if fully set forth herein.

59. Deny the allegations set forth in paragraph "59" of the Complaint.

60. Deny the allegations set forth in paragraph "60" of the Complaint.

61. In response to the allegations set forth in paragraph "61" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "60" of this answer as if fully set forth herein.

62. Deny the allegations set forth in paragraph "62" of the Complaint.

63. Deny the allegations set forth in paragraph "63" of the Complaint.

64. In response to the allegations set forth in paragraph "64" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "63" of this answer as if fully set forth herein.

65. Deny the allegations set forth in paragraph "65" of the Complaint.

66. Deny the allegations set forth in paragraph "66" of the Complaint.

67. In response to the allegations set forth in paragraph "67" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "66" of this answer as if fully set forth herein.

68. Deny the allegations set forth in paragraph "68" of the Complaint.

69. Deny the allegations set forth in paragraph "69" of the Complaint.

70. In response to the allegations set forth in paragraph "70" of the

Complaint, defendants repeat the responses set forth in paragraphs "1" through "69" of this answer as if fully set forth herein.

71. Deny the allegations set forth in paragraph "71" of the Complaint.

72. Deny the allegations set forth in paragraph "72" of the Complaint.

73. In response to the allegations set forth in paragraph "73" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "72" of this answer as if fully set forth herein.

74. Deny the allegations set forth in paragraph "74" of the Complaint.

75. Deny the allegations set forth in paragraph "75" of the Complaint.

76. In response to the allegations set forth in paragraph "76" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "75" of this answer as if fully set forth herein.

77. Deny the allegations set forth in paragraph "77" of the Complaint.

78. Deny the allegations set forth in paragraph "78" of the Complaint.

79. In response to the allegations set forth in paragraph "79" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "78" of this answer as if fully set forth herein.

80. Deny the allegations set forth in paragraph "80" of the Complaint.

81. Deny the allegations set forth in paragraph "81" of the Complaint.

82. In response to the allegations set forth in paragraph "82" of the Complaint, defendants repeat the responses set forth in paragraphs "1" through "81" of this answer as if fully set forth herein.

83. Deny the allegations set forth in paragraph "83" of the Complaint.

84. Deny the allegations set forth in paragraph "84" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

85. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

86. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

87. At all times relevant to the acts alleged in the complaint, the duties and functions of municipal defendant's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, the City has governmental immunity from liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

88. Plaintiff provoked or was at fault for the incident.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

89. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of third parties, and was not the proximate result of any act of defendants.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

90. Punitive damages cannot be assessed as against the City of New York.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

91. At all times relevant to the acts alleged in the Complaint, defendants



acted reasonably in the proper and lawful exercise of its discretion.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

92. Defendant Moretti has not violated any clearly established constitutional or statutory rights of which a reasonable person would have known and therefore is protected by qualified immunity.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

93. Plaintiff's state law claims are barred in whole or in part by reason of plaintiff's failure to comply with the applicable conditions precedent to suit.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

94. Plaintiff's state law claims are barred in whole or in part by the applicable statutes of limitations.

WHEREFORE, defendants City of New York and Police Detective Dina Moretti demand judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

DATED: New York, New York  
October 16, 2007

Respectfully submitted,

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants*  
CITY OF NEW YORK and DINA  
MORETTI  
100 Church Street, Room 3-162  
New York, New York 10007  
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By:   
Barry Myrvold

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2007, the foregoing document was filed and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

By ECF:

James Myerson  
*Attorney for Plaintiff*  
64 Fulton Street, Suite 502  
New York, New York 10038  
(212) 226-3310

DATED: New York, New York  
October 16, 2007



Barry Myrland

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Defendants.

**ANSWER TO COMPLAINT**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York*

*Attorney for Defendants*

*100 Church Street*

*New York, N.Y. 10007*

*Of Counsel: Barry K. Myrvold*

*Tel: (212) 788-9391*

*NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2007.....*

*..... Esq.*

*Attorney for.....*